

CRM-M-29376-2021 (O&M)

214 (2nd case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-29376-2021 (O&M)

Date of decision: July 13, 2023

Kamaldev Gharti

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Abhinay Goel, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in criminal case bearing FIR No.08 dated 08.01.2021, registered under Sections 18, 20, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Lalru, District SAS Nagar (Mohali).

2. Per First Information Report (FIR), on 08.01.2021 in the area of Shiv Mandir, Jharmari, Parmod Jangshah (co-accused of petitioner) was found in possession of 6000 (100 pouches X 60) tablets of Lomotil, 900 (60 strips X 15) tablets of Nitravet-10 and 75 bottles of Biorex syrup of 100 ml. each, without any licence or permit. Petitioner was found in possession of 9 Kg. 500 grams of Charas and 2 Kg. opium, without any permit or licence. Both were taken into custody on the spot i.e., on 08.01.2021.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that petitioner is not involved in any other case. Alleged recovery was not effected from conscious possession of petitioner. There are 13 prosecution witnesses cited to be examined and trial is yet to start.

4. On the other hand, learned State counsel, on instructions from SI Shalinder Kumar opposes the bail petition. She submits that petitioner has committed a serious

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offence. Challan was filed and charges have also been framed. Recovery effected from the possession of the petitioner is commercial.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. In the present case, petitioner was apprehended on the spot and huge contraband i.e., 9 Kg. 500 grams of Charas and 2 Kg. opium, without any permit or licence was recovered from his possession. Bail petition of the petitioner was rightly rejected by the Court below vide order dated 19.04.2021. In view of Section 37 of NDPS Act, no person involved in trade of commercial quantity of narcotics is liable to be released on bail, unless there are satisfactory and reasonable grounds for believing that such person is not guilty of the said offence and is not likely to commit any offence while on bail. In the instant case, I see no reasonable grounds for believing that petitioner is not guilty of the alleged offence at this stage or that if released on bail he is unlikely to commit any offence. Further, petitioner is a native of Nepal and the risk that he might flee or not appear in Court cannot be ruled out completely at this stage.

7. In the facts and circumstances of the present case, I am of the view that petitioner does not deserve any concession of bail.

8. In the premise, instant bail petition is dismissed.

9. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 13, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No